

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Implementation of Section 621(a)(1) of the Cable	)	MB Docket No. 05-311
Communications Policy Act of 1984 as Amended	)	
by the Cable Television Consumer Protection and	)	
Competition Act of 1992	)	

**COMMENTS OF CITY OF LYNN, MASSACHUSETTS**

The City of Lynn, Massachusetts appreciates the opportunity to file comments on the Second Further Notice of Proposed Rulemaking (“FNPRM”) in the above-referenced docket. Lynn strongly opposes the tentative conclusion in the FNPRM that cable-related in-kind contributions are franchise fees. Lynn also opposes the tentative conclusion in the FNPRM that local governments have no authority regarding cable operators’ use of the rights of way to provide non-cable services.

Cable-related in-kind contributions should not be considered franchise fees. This proposed change upends a decades-old understanding of what constitutes franchise fees, an understanding that excludes in-kind services or equipment. By changing the definition to include any in-kind franchise requirements such as services, facilities, or equipment related to the establishment or operation of a cable system, will, in effect, eliminate the already modest funding for a variety of public goods, including public access programming.

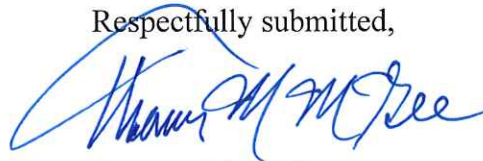
Second, this FNPRM would allow certain cable operators to construct and install facilities and equipment for non-cable services, such as small cells or other wireless deployments, in the municipal rights of way without any local regulation or compensation.

Under this FNPRM, local franchising authorities would be preempted from regulating these installations, raising aesthetic and public safety concerns. This preemption would also extend to fees for the use of the rights of way, meaning cable companies would not have to compensate local franchising authorities for the additional use of the rights of way. This windfall for private cable companies is directly at the expense of municipalities.

In conclusion, cities and towns have for decades worked with private businesses to successfully negotiate franchise agreements that are beneficial to both parties. Municipalities are the government body best suited to managing the public rights of way. And so, the City of Lynn opposes this FNPRM because it would serve only to hamstring municipalities in making franchise agreements, by reducing their bargaining power, and preempts local authority, especially in their rights-of-way.

Approved As To Form:  
  
George S. Markopoulos  
City Solicitor

Respectfully submitted,



Thomas M. McGee  
Mayor  
City of Lynn, Massachusetts

November 14, 2018